

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

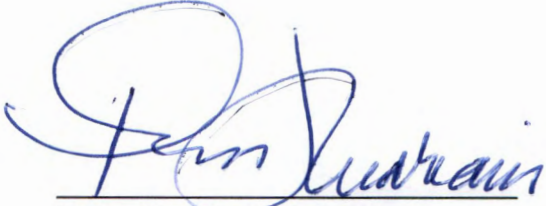
OMAR S. FOLK,	:	Civil No. 3:22-cv-599
	:	
Plaintiff	:	(Judge Mariani)
	:	
v.	:	
	:	
UNITED STATES OF AMERICA, <i>et al.</i> ,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 22nd day of January, 2024, upon consideration of Defendants' motion (Doc. 93) to dismiss pursuant to Federal Rules of Civil Procedure 12(b)(1) and (b)(6) or, in the alternative, for summary judgment pursuant to Federal Rule of Civil Procedure 56, and the parties' respective briefs in support of and in opposition to said motion, and for the reasons set forth in the accompanying Memorandum, **IT IS HEREBY ORDERED THAT:**

1. Defendants' Rule 12(b)(1) motion (Doc. 93) is **GRANTED**.
 - a. The *Bivens* official capacity claim against the individual Defendants is **DISMISSED** for lack of jurisdiction.
 - b. The FTCA claim against the individual Defendants is **DISMISSED** for lack of jurisdiction.
2. Defendants' Rule 12(b)(6) motion (Doc. 93) is **GRANTED** in part and **DENIED** in part.
 - a. The Public Health Service Act Precludes suit against Defendant Dr. Buschman and the claims against him are **DISMISSED**.
 - b. The motion to dismiss the *Bivens* claim as a "new context" is **DENIED**.

3. Defendants' Rule 56 motion (Doc. 93) is **GRANTED**.
 - a. Summary judgment on the *Bivens* claim is **GRANTED**.
 - b. The Clerk of Court is directed to **ENTER** judgment in favor of Defendants Stahl, Buschman, and Cullen, and against Plaintiff on the *Bivens* claim.
 - c. Summary judgment on the FTCA claim is **GRANTED**.
 - d. The Clerk of Court is directed to **ENTER** judgment in favor of the United States, and against Plaintiff on the FTCA claim.
4. The Clerk of Court is further directed to **CLOSE** this case.
5. Any appeal from this Order is **DEEMED** frivolous and not taken in good faith. See 28 U.S.C. § 1915(a)(3).



Robert D. Mariani
United States District Judge